

Request for Reconsideration:

Claims 1-13 are pending in this application, of which claims 1 and 7 are independent claims. Applicant respectfully requests that the Examiner reconsider the rejections in view of the following remarks. No fees are believed to be due as result of this submission. Nevertheless, in the event of any variance between the fees determined by Applicant and the fees determined by the U.S. Patent and Trademark Office ("PTO"), please charge such variance to the undersigned's **Deposit Account No. 02-0375**.

Remarks:

1. Rejections.

Claims 1-13 stand provisionally rejected under the judicially-created doctrine of obviousness-type, double patenting in view of the following claims of Applicant's six (6), co-pending patent applications: (1) claims 1-16 of U.S. Patent Application No. 10/743,425, now issued as Patent No. US 7,128,204 B2 to Baranowski; (2) claims 1-20 of U.S. Patent Application No. 10/743,426, now issued as Patent No. US 7,063,215 B2 to Baranowski; (3) claims 1-10 of U.S. Patent Application No. 10/743,440, now issued as Patent No. US 7,152,756 B2 to Baranowski; (4) claims 1-80 of U.S. Patent Application No. 10/601,669, now issued as Patent No. US 7,128,203 B2 to Baranowski; (5) claims 1-40 of U.S. Patent Application No. 10/601,674, now issued as Patent No. US 6,993,884 B2 to Baranowski; and (6) claims 1-31 of U.S. Patent Application No. 10/601,670, now issued as Patent No. US 7,036,679 B2 to Baranowski.¹ In addition, claims 1-3 and 6-11 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by U.S. Patent No. 4,398,612 to Mikami *et al.* ("Mikami") in view of Patent No. US 6,360,870 B1 to Woolridge. Moreover, claims 4, 5, and 12 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Mikami in view of Woolridge, as applied to claim 1, and further in view of U.S. Patent No. 3,782,878 to Hudson, and claim 13 stands rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Mikami in view of Woolridge and Hudson, as applied to claim 12, and further in view of U.S. Patent No. 5,613,590 to Simionato. Applicant respectfully disagrees.

2. Obviousness Rejections.

As noted above, claims 1-3 and 6-11 stand rejected as allegedly rendered obvious by Mikami in view of Woolridge. In order for the Office Action to establish a prima facie case of obviousness, at least three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Examiner. Second, there must be a reasonable expectation of success. Third, the cited references must disclose or suggest all the claim elements. MPEP 2143. Applicant respectfully submits that the Office Action fails to establish a prima facie case of obviousness.

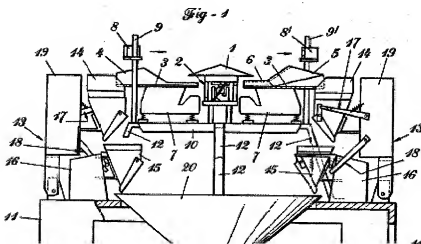
¹ Because all of these patent applications have issued, this rejection should no longer be a "provisional" rejection.

a. Independent Claims 1 and 7

This application includes two independent claims, claims 1 and 7, which describe a dispensing system, such as a rotary, vibratory dispenser. Claims 1 and 7 each describe an embodiment of the dispenser in which the dispensing paths rotate and the feeder bowl may or may not rotate. With respect to independent claims 1 and 7, the Office Action acknowledges that Mikami does not disclose a rotation drive for rotating the dispenser paths. Nevertheless, the Office Action contends it would have been obvious to one of ordinary skill in the art to modify the teachings of Mikami in view of Woolridge to include a rotation drive for rotating the one or more dispensing paths as taught by Woolridge, because centripetal force could be used to dispense the articles. Applicant respectfully disagrees.

Applicant submits that the requisite motivation to combine Mikami in view of Woolridge is lacking. MPEP 2143.01(V) states that if the "proposed modification would render the prior art invention unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." Furthermore, the references cited by the Office Action must be considered in its entirety, *i.e.*, as a whole, including portions that teach away from the claimed invention. MPEP 2141.02(VI). Mikami describes that "[a] plurality of feed troughs 3 are radially arranged around the outer periphery of the dispersion table 1, with their lower portions disposed under and out of contact with the dispersion table 1." Mikami, Column 4, Lines 6-10; Figs. 1-2. Mikami describes that at end of each trough 3 is a weighing unit 13 comprising a pool hopper 14 positioned below the front end of the respective trough 3. See

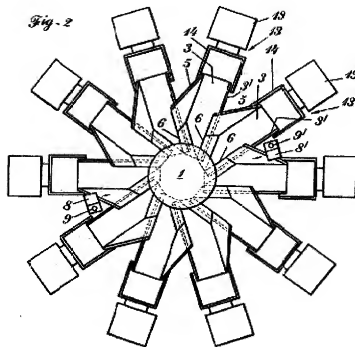
Mikami, Column 4, Lines 33-35. As shown clearly by Fig. 1, left, a portion of vertical wall 4 of trough 3 is overlaps pool hopper 14, as shown by the dotted line illustrating the relevant portion of vertical wall 4. Consequently, a rotation of the trough 3 relative to weighing unit 14 is limited by the upwardly



extending walls of hopper 14 in which an outer edge of each trough 3 is disposed. See also Mikami, **Fig. 2** (below). Moreover, each weighing unit 13 also includes a driving mechanism 19 that supports hopper unit 14 via lever mechanism 17, and each weighing unit 13 is installed in frame 11 under respective trough 3. Mikami, Column 4, Lines 37-41. Consequently, the intended purpose of trough 3 is to feed articles to hopper 14 of stationary weighing unit 13 mounted in frame 11. Furthermore, modifying Makami in view of the rotation drive of Woolridge also would require modification of at least Makami's weighing mechanism 13, frame 11, and the position of troughs 3 relative to hoppers 14. Therefore, modifying rotating troughs 3 in view of Woolridge, as proposed by the Office Action, is contrary to the disclosure of Mikami, which teaches away from the use of rotary troughs, and would render the invention of Mikami unsatisfactory for its intended purpose.

In addition, Mikami describes that light projector 8 and light receiver 8' are arranged on opposing sides of dispersion table 1 to detect the number of articles accumulated on the dispersion table in order to control the supply of articles from feeder 21. Mikami, Column 4, Lines 22-26. Projector 8 and receiver 8' are mounted on respective posts 9, 9' attached to legs 12 that support round support plate 10

over frame 11, and each post 9, 9' is disposed between a pair of troughs 3, as clearly shown in **Fig. 2**, above. Mikami, Column 4, Lines 26-31; **Figs. 1-2**. Posts 9, 9' are configured to permit the adjustment of a vertical position for each of projector 8 and receiver 8' with respect to dispersion table 1. Mikami, Column 4, Lines 28-29. Accordingly, modifying troughs 3 to rotate also would require a modification to the position of posts 9, 9', as well as the position of light projector 8 and light receiver 8'. Therefore, for this additional reason, modifying troughs 3 in



view of Woolridge, in the manner proposed by the Office Action, also is contrary to the disclosure of Mikami, which teaches away from the use of rotary troughs, and would render Mikami unsatisfactory for its intended purpose.

In view of the foregoing remarks, Applicant maintains that the Office Action fails to demonstrate that the art of record provides the requisite motivation to combine references as proposed by the Office Action. As a result, the Office Action fails to demonstrate a prima facie case of obviousness. Therefore, Applicant respectfully requests that the Examiner withdraw the obviousness rejections of claims 1 and 7.

b. Dependent Claims 2-6 and 8-13

Claims 2-6 and 8-13 are directly or indirectly dependent from independent claim 1. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Moreover, Applicant respectfully submits that the other references cited by the Office Action, i.e., Hudson and Simionato, do not overcome the above-noted deficiencies of Woolridge. Thus, Applicant submits that dependent claims 2-6 and 8-13 are allowable for at least the same as reasons as allowable, independent claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the obviousness rejections of claims 2-6 and 8-13.

3. Obviousness-Type, Double Patenting Rejections.

As noted above, claims 1-13 stand rejected under the judicially-created doctrine of obviousness-type, double patenting in view Patent Nos. US 6,993,884 B2; US 7,036,679 B2; US 7,063,215 B2; US 7,128,203 B2; US 7,128,204 B2; and US 7,152,756 B2. On October 13, 2006, Applicant submitted a terminal disclaimer for each of the above-identified patents, a statement under 37 C.F.R § 3.73(b), and paid the requisite terminal disclaimer fees. Thus, Applicant respectfully requests that the Examiner withdraw the obviousness-type double patenting rejections of claims 1-13.

Conclusion:

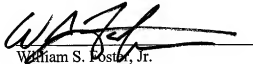
Applicant maintains that the above-captioned patent application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicant's representative, we would welcome the opportunity to do so.

Applicant believes that no fees are due as a result of this responsive amendment. Nevertheless, in the event of any variance between the fees determined by Applicant and the fees determined by the U.S. Patent and Trademark Office, please charge or credit any such variance to the undersigned's **Deposit Account No. 02-0375**.

Respectfully submitted,
BAKER BOTTS L.L.P.

Dated: **March 20, 2007**

By:


William S. Foster, Jr.
Registration No. 51,695

Baker Botts L.L.P.
The Warner; Suite 1300
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
Tel: (202) 639-7700
Fax: (202) 639-7890

WSF/